

APPLICANT(S): STEPHENS, Adrian  
SERIAL NO.: 10/812,660  
FILED: March 29, 2004  
Page 8

### **REMARKS**

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicant asserts that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

### **Status of Claims**

Claims 1, 5-9, 13-17, 21-26, 28-31, 33 and 34 are pending in the application. Claims 1, 7-9, 13-17, 24, 25, 29, 31, 33 and 34 have been amended. No new matter has been added.

Claims 2-4, 10-12, 18-20, 27 and 32 have been canceled without prejudice or disclaimer. In making this cancellation without prejudice, Applicant reserves all rights in these claims to file divisional and/or continuation patent applications.

Two claims labeled claim 22 were filed with this application, and this has only now come to the undersigned's attention. Applicants cancelled one of the claims labeled claim 22, and the other claim 22 is still pending. If any correction on the part of Applicants is required, please contact the undersigned at the telephone number below.

### **Claim Objections**

In the Office Action, the Examiner objected to claim 8 because of alleged informalities. Claim 8 has been amended in order to cure these informalities. Accordingly, Applicant requests withdrawal of this objection.

### **CLAIM REJECTIONS**

#### **35 U.S.C. § 112 Rejection**

In the Office Action, the Examiner rejected claims 1 and 3-8 under 35 U.S.C. § 112, (first paragraph), as being indefinite for failing to comply with the written description requirement.

APPLICANT(S): STEPHENS, Adrian  
SERIAL NO.: 10/812,660  
FILED: March 29, 2004  
Page 9

Claim 1 has been amended to cancel the claim language noted by the Office Action.

Applicant respectfully asserts that this amendment renders claims 1 and 3-8 are proper under 35 USC § 112 and request that the 35 USC § 112 rejection be withdrawn.

### **35 U.S.C. § 103 Rejections**

In the Office Action, the Examiner rejected claims 1-3, 5, 7-9, 13-15, 17, 22-26, 28-31 and 34 under 35 U.S.C. § 103(a), as being unpatentable over Pecen in view of Angle and further in view of Benveniste (US 2005/0152324). Applicant believes this rejection has been overcome in view of the amendments made above and the remarks that follow.

Amended independent claim 1 includes limitations that are not disclosed or suggested by the combination of Pecen in view of Angle and further in view of Benveniste. It is well established that obviousness requires a teaching or a suggestion by the prior art of all the elements of a claim (Manual of Patent Examining Procedure ("M.P.E.P.") §2142). Without conceding the appropriateness of the combination, Applicant respectfully submits that the combination of Pecen in view of Angle and further view of Benveniste does not meet the requirements of an obvious rejection because none of the references discloses or suggests at least the claim 1 element of "...receiving from a client application, a request for delivery of the information, wherein the request includes a multicast address and a quality of service attribute".

Claims 2 and 3 have been cancelled. Each of claims 5, 7 and 8 depends from claim 1, and thus, in addition to any independent bases for patentability, Applicant respectfully submits that claims 5, 7 and 8 are similarly patentable over the cited references by virtue of at least such dependency.

Amended independent claim 9 includes limitations that are not disclosed or suggested by the combination of Pecen in view of Angle and further in view of Benveniste. Applicant respectfully submits that the combination of Pecen in view of Angle and further view of Benveniste does not meet the requirements of an obvious rejection because none of the references discloses or suggests at least the claim 9 element of "...sending a request for delivery of the information, the request including a multicast designation address and a desired quality of service attribute".

APPLICANT(S): STEPHENS, Adrian  
SERIAL NO.: 10/812,660  
FILED: March 29, 2004  
Page 10

Each of claims 13-15 depends from claim 9, and thus, in addition to any independent bases for patentability, Applicant respectfully submits that claims 13-15 are similarly patentable over the cited references by virtue of at least such dependency.

Amended independent claim 17 includes limitations that are not disclosed or suggested by the combination of Pecen in view of Angle and further in view of Benveniste. Applicant respectfully submits that the combination of Pecen in view of Angle and further view of Benveniste does not meet the requirements of an obvious rejection because neither of the references discloses or suggests at least the claim 17 element of "...to send a request including a multicast designation address and a desired quality of service attribute to deliver the multicast information from a network device...". Claim 22 depends from claim 17, and at least for this reason is likewise allowable.

Each of independent claims 24 and 31, includes limitations that are not disclosed or suggested by the combination of Pecen in view of Angle and further in view of Benveniste. Applicant respectfully submits that the combination of Pecen in view of Angle and further view of Benveniste does not meet the requirements of an obvious rejection because none of the references discloses or suggests at least the claim element of "...wherein the request includes a multicast address and a quality of service attribute ...", as claimed claims 24 and 31.

Each of claims 25-26 and 28-30 depends from claim 24, and claim 34 depends from claim 31. Thus, in addition to any independent bases for patentability, Applicant respectfully submits that claims 25-26, 28-30 and 34 are similarly patentable over the cited references by virtue of at least such dependency.

Furthermore, Applicant respectfully asserts that the Office Action did not make a *prima facie* case of obviousness because Angle et al. teaches a wired computer network e.g., a packet switch communication network, and the technical field of the claimed invention is that of a wireless communication network. Thus background knowledge of the person having ordinary skill in the art of wireless communication network does not include the teaching of Angle et al. and cannot make the claimed invention obvious.

The Office Action does not provide an explicit reasoning for the combination. "[I]t can be important to identify a reason that would have prompted a person of ordinary skill in

APPLICANT(S): STEPHENS, Adrian  
SERIAL NO.: 10/812,660  
FILED: March 29, 2004  
Page 11

the relevant field to combine the elements in the way the claimed new invention does". KSR Int'l Co., v. Teleflex Inc. 127 S. Ct. 1727, 1741 (2007). Applicant respectfully asserts that Office Action did not provide a detailed explanation of "the effects of demands known to the design community or present in the marketplace" and "the background knowledge possessed by a person having ordinary skill in the art." KSR, 127 S. Ct. at 1740-41.

Applicant respectfully asserts that claims 1-3, 5, 7-9, 13-15, 17, 22-26, 28-31 and 34 as amended are new and not obvious, thus patentable. Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-3, 5, 7-9, 13-15, 17, 22-26, 28-31 and 34 under 35 U.S.C. § 103(a), as being unpatentable over Pecen in view of Angle and further view of Benveniste.

The Office Action rejected claims 4, 12 and 33 under 35 U.S.C. § 103(a), as being unpatentable over Pecen in view of Angle and further in view of Benveniste and further in view of Pung et al (US 2002/0150099).

Claims 4 and 12 have been canceled without prejudice or disclaimer.

As discussed above, claim 31 is patentable over Pecen, Angle and Benveniste. Pung does not cure the deficiencies of Pecen, Angle and Benveniste. Claim 33 depends from independent base claim 31. Thus, in addition to any independent bases for patentability, Applicant respectfully submits that claim 33 is similarly patentable over the cited references by virtue of at least such dependency.

Furthermore, Applicant respectfully asserts that the Office Action did not make a *prima facie* case of obviousness because Pung et al. teaches a packet switch communication network which is from different technical field than that of the claimed invention (e.g. a wireless communication network). Thus background knowledge of the person having ordinary skill in the art of wireless communication network does not include the teaching of Pung et al. and cannot make the claimed invention obvious.

Pung is in a different field from that of the other references which the Examiner attempts to combine with Pung. Further, quality of service, as defined in Pung paragraph [009], may cause other references in this combination to malfunction (See M.P.E.P §

APPLICANT(S): STEPHENS, Adrian  
SERIAL NO.: 10/812,660  
FILED: March 29, 2004  
Page 12

2143.01.V), and differs from the definition of quality of service in Applicant's application as filed (e.g., paragraphs [0014] and [0015]). Applicant therefore asserts one would not be motivated to combine Pung with Pecen and/or Angle and/or Benveniste, as this combination teaches away from the invention and would be inoperative.

Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 33 under 35 U.S.C. § 103(a), as being unpatentable over Pecen in view of Angle and further in view of Benveniste and further in view of Pung et al (US 2002/0150099).

The Office Action, further claims 6, 16 and 21 under 35 U.S.C. § 103(a), as being unpatentable over Pecen in view of Angle and further in view of Benveniste and further in view of Chuah et al (US 7,096,039).

As discussed above, claims 1, 9 and 17 are patentable over Pecen, Angle and Benveniste. Pung does not cure the deficiencies of Pecen, Angle and Benveniste. Claim 6 depends from independent base claim 1, claim 16 depends from independent base claim 9 and claim 21 depends from independent base claim 17. Thus, in addition to any independent bases for patentability, Applicant respectfully submits that claims 6, 16 and are similarly patentable over the cited references by virtue of at least such dependency.

Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 33 under 35 U.S.C. § 103(a), as being unpatentable over Pecen in view of Angle and further in view of Benveniste and further in view of Chuah et al.

### **CONCLUSION**

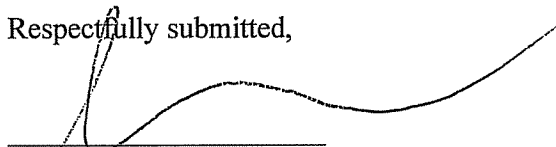
In view of the foregoing amendments and remarks, Applicant asserts that the pending claims are allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

APPLICANT(S): STEPHENS, Adrian  
SERIAL NO.: 10/812,660  
FILED: March 29, 2004  
Page 13

No fees are believed to be due in connection with this paper. However, if any such fees are due, please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Caleb Pollack', written over a horizontal line.

Caleb Pollack  
Attorney/Agent for Applicant(s)  
Registration No. 37,912

Dated: January 27, 2009

**Pearl Cohen Zedek Latzer, LLP**  
1500 Broadway, 12th Floor  
New York, New York 10036  
Tel: (646) 878-0800  
Fax: (646) 878-0801